

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

DOCKET FILE COPY ORIGINAL

In the Matter of)

Rulemaking to Amend Part 1 and Part 21)
of the Commission's Rules to Redesignate)
the 27.5 - 29.5 GHz Frequency Band and)
to Establish Rules and Policies for)
Local Multipoint Distribution Service)

CC Docket No. 92-297

RM-7872; RM-

RECEIVED

MAR 21 1994

COMMENTS
AND APPLICATION FOR COMMITTEE MEMBERSHIP
OF THE NYNEX CORPORATION

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

NYNEX Corporation (hereinafter "NYNEX"), by its attorneys, respectfully submits the following Comments and Application for Committee in response to the Second Notice of Proposed Rulemaking (hereinafter "Second NPRM") and Public Notice released by the Commission on February 11, 1994, in the above-captioned proceeding.

In the Second NPRM and Public Notice, the Commission addresses issues concerning the redesignation of the 28 GHz band for fixed point-to-point and fixed satellite use and proposed that technical rules be developed to maximize sharing of the 28 GHz band by FSS and LMDS systems. The Commission further proposes that an industry advisory committee or Federal Advisory Committee be established to conduct the negotiated rulemaking proceeding with the stated goal of reaching a consensus on the language or substance of appropriate rules. The Commission tentatively identifies eighteen parties as having potentially-affected interests that may warrant representation should the negotiated rulemaking proceed, as

No. of Copies rec'd
List ABCDE

05

proposed.¹ Interested parties who believe themselves to be significantly affected by this proposal but not adequately represented by any entity already identified by the Commission are invited to nominate potential committee members.²

NYNEX supports the Commission's decision to establish a Negotiated Rulemaking Committee (NRMCM) to develop technical regulations reflecting a consensus industry view. If properly designed and implemented, this approach would allow the industry to build a foundation for mutual understanding and analysis of important technical issues. The Commission has identified the interests of many of the parties that will be significantly affected by the key issues in the Public Notice. But, inasmuch as the success of the Committee's efforts depends, primarily, on its ability to consider a wide range of potentially conflicting views, the Commission must strive to ensure the Committee's membership roster includes a variety of entities representing consumers, users and all sectors of the industry.

The list of parties with potentially affected interests identified in the Public Notice consists primarily of satellite service providers and equipment vendors and manufacturers. NYNEX agrees that these parties cover a range

¹ Public Notice at ¶8.

² Id. at 11

of interests.³ We are concerned, however, that while the list includes a number of manufacturers and satellite applicants, the number of licensees of LMDS service included in the interested party group is limited. We believe that the composition of the group should be more balanced, particularly in view of the dynamic nature of technological innovation and competition in the areas to be addressed by the Committee.

As a representative of a potential providers of terrestrial LMDS service, an experimental license holder in the 27.5 GHz range in White Plains, New York, and a commenter in the LMDS proceeding,⁴ NYNEX believes that it would be a valuable asset in supporting the committee's efforts.

³ We note that these parties represent a range of competitive telecommunications activities and alliances. For example, Cellular Vision of New York, formerly Hye Crest Management Inc., is an affiliate of Suite 12 Group that is licensed to provide an LMDS prototype system to a small number of subscribers in the Brighton Beach (Brooklyn) area of New York City. The FCC has also awarded Suite 12 Group a pioneer's preference for its point-to-multipoint technology. Bell Atlantic, also identified as a NRMCC participant, is a minority owner in Cellular Vision. Ellipsat, Motorola, Constellation and Lorall/Qualcomm are involved in satellite communications and, along with TRW, have announced plans to establish voice, data, paging and facsimile communications worldwide between wireless, hand-held terminals via LEO satellite constellations.

⁴ In comments filed March 16, 1993 in the LMDS proceeding, NYNEX Mobile Communications Company ("NMCC") supported the Commission's proposal to reallocate spectrum in the 28 GHz band and its proposal to license two blocks of 1000 MHz each to two different carriers. NMCC also suggested that for licensing purposes LMDS market areas should mirror CATV markets, that 10-year license terms are appropriate and that LMDS licensees should be permitted to select common or noncommon carrier status on a channel-by-channel or cell-by-cell basis.

In the trial in Westchester County, New York, NYNEX will explore the potential for providing an array of broadband services as a complement to local exchange or as a substitute for existing cable services. NYNEX's participation in the NRMC is consistent with the Commission's intent to encourage the parties with significant expertise in the areas of landline and wireless communications to participate in the Committee process.

NYNEX Corporation looks forward to the opportunity to provide significant support to the Committee's efforts to reach a negotiated industry solution to the important spectrum-sharing issues raised in this docket. By these Comments, NYNEX Corporation nominates Mr. Chandan Banerjee, Member of Technical Staff, NYNEX Science and Technology, Inc., to participate in the Negotiated Rulemaking or Advisory Committee. As a NRMC member, Mr. Banerjee will contribute his

valuable technological experience and expertise in the area of wireless broadband services to this process and will enhance the membership roster ultimately selected by the Commission.⁵

Respectfully submitted,

NYNEX CORPORATION

By:

Jacqueline E. Holmes Nethersole
Edward R. Wholl
Jacqueline E. Holmes Nethersole

120 Bloomingdale Road
White Plains, NY 10605
914-644-5735

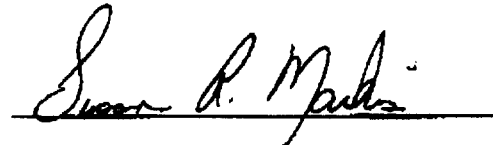
Its Counsel

Dated: March 21, 1994

⁵ Mr. Banerjee's expertise in the areas of wireless LAN standards and products, spectrally efficient digital modulation techniques and radio propagation issues are described in the attached vitae. NYNEX is convinced that Mr. Banerjee will prove to be a significant addition to the Committee in its efforts to determine technical feasibility of sharing between satellite and terrestrial service in the 28 GHz spectrum band.

CERTIFICATE OF SERVICE

I, Susan Markis, hereby certify that on March 21, 1994, a copy of the foregoing PETITION FOR RECONSIDERATION in GEN Docket No. 92-297 was served on each of the parties listed on the attached Service List by first class U.S. mail, postage prepaid.

A handwritten signature in cursive script, reading "Susan R. Markis", is written over a horizontal line.

Susan Markis

Chairman Reed E. Hundt
Federal Communications Commission
1919 M Street, NW, Room 814
Washington, D.C. 20554

Renee Licht, Esq.
Acting Senior Legal Advisor
to Chairman Reed Hundt
1919 M Street, NW, Room 814
Washington, D.C. 20554

Commissioner James H. Quello
Federal Communications Commission
1919 M Street, NW, Room 802
Washington, D.C. 20554

Brian Fontes, Ph.D.
Special Advisor to Commissioner
James H. Quello
1919 M Street, NW, Room 802
Washington, D.C. 20554

Commission Andrew C. Barrett
Federal Communications Commission
1919 M Street, NW, Room 826
Washington, D.C. 20554

Byron Marchant, Esq.
Senior Legal Advisor to Commissioner
Andrew C. Barrett
Federal Communications Commission
1919 M Street, NW, Room 826
Washington, D.C. 20554

Commissioner Ervin S. Duggan
Federal Communications Commission
1919 M Street, NW, Room 832
Washington, D.C. 20554

John C. Hollar, Esq.
Senior Legal Advisor to Commissioner
Ervin S. Duggan
Federal Communications Commission
1919 M Street, NW, Room 832
Washington, D.C. 20554

Karen Brinkman, Esq.
Special Assistant to Chairman
Reed Hundt
1919 M Street, NW, Room 814
Washington, D.C. 20554

William Kennard, Esq.
General Counsel
Federal Communications Commission
1919 M Street, NW, Room 614
Washington, D.C. 20554

Dr. Robert M. Pepper
Chief, Office of Plans and Policy
Federal Communications Commission
1919 M Street, NW, Room 822
Washington, D.C. 20554

Kathleen B. Levitz
Acting Chief, Common Carrier Bureau
Federal Communications Commission
1919 M Street, NW, Room 500
Washington, D.C. 20554

Thomsa P. Stanley
Chief Engineer
Federal Communications Commission
2025 M Street, NW, Room 7002
Washington, D.C. 20554

David Siddall
Chief, Frequency Allocations Branch
Federal Communications Commission
2025 M Street, NW, Room 7102
Washington, D.C. 20554

Barry Lambergerman, Esq.
Fletcher, Heald & Hildreth
1300 North 17th Street, 11th Floor
Rosslyn, VA 22209
Counsel for MOTOROLA SATELLITE
COMMUNICATIONS, INC.

Philip L. Malet, Esq.
Alfred Mamlet, Esq.
Pantelis Michalopoulos, Esq.
Steptoe & Johnson
1330 Connecticut Ave., NW
Washington, D.C. 20036
Counsel for MOTOROLA SATELLITE
COMMUNICATIONS, INC.

Cheryl Lynn Schneider, Esq.
COMSAT Corp.
6560 Rock Spring Drive
Bethesda, MD 20817

Bruce D. Jacobs, Esq.
Glenn S. Richards, Esq.
Fisher, Wayland Cooper & Leader
1255 23rd Street, NW, Suite 800
Washington, D.C. 20037
Counsel for AMSC

Lon C. Levin
Vice President
American Mobile Satellite Corp.
10802 Parkridge Blvd.
Reston, VA 22091

Robert A. Mazer, Esq.
Albert Shuldiner, Esq.
Nixon, Hargrave, Devans & Doyle
One Thomas Circle, NW, Suite 800
Washington, D.C. 20005
Counsel for CONSTELLATION

Norman R. Levanthal, Esq.
Raul R. Rodriguez, Esq.
Stephen D. Baruch, Esq.
Leventhal, Senter & Lerman
2000 K Street, NW, Suite 600
Washington, D.C. 20006-1809
Counsel for TRW, INC.

Gary M. Epstein, Esq.
John P. Janka, Esq.
Latham & Watkins
1001 Pennsylvania Ave., NW, Suite 1300
Washington, D.C. 20004
Counsel for HUGHES

Jill Stern, Esq.
Shaw, Pittman, Potts & Trowbridge
2300 N Street, NW, Second Floor
Washington, D.C. 20037
Counsel for ELLIPSAT

Paul J. Sinderbrand, Esq.
Dawn G. Alexander, Esq.
Sinderbrand & Alexander
888 16th Street, NW, Suite 610
Washington, D.C. 20006-4103
Counsel for WIRELESS CABLE ASSOCIATION
INTERNATIONAL, INC.

Gerald Hellman
Vice President, Policy &
International Programs
Mobile Communications Holdings, Inc.
1120 19th Street, NW
Washington, D.C. 20036

Charles Force
Associate Administrator for Space
Communications
NASA Headquarters
Washington, D.C. 20546

Victor J. Toth, P.C.
Law Offices
2719 Soapstone Drive
Reston, VA 22091
Counsel for CELSAT, INC.

David Struba
NASA Headquarters
Code OI
Washington, D.C. 20546

Richard G. Gould
Telecommunications Systems
1629 K Street, NW, Suite 600
Washington, D.C. 20006

Terri B. Natoli
Regulatory and Industry Relations
Manager
GTE Spacenet
1700 Old Meadow Road
McLean, VA 22102

Andrew D. Lipman, Esq.
Catherine Wang, Esq.
Swidler & Berlin, Chartered
3000 K Street, NW
Washington, D.C. 20007
Counsel for MOTOROLA MICROWAVE

Kathryn A. Zachem
Richard A. Hindman
Wilkinson, Barker, Knauer & Quinn
1735 New York Ave., NW
Washington, D.C. 20006
Counsel for PENINSULA ENGINEERING
GROUP, INC.

Randall L. Carl
Digital Microwave Corporation
170 Rose Orchard Way
San Jose, CA 95134

Tom W. Davidson
Akin Gump Hauer & Feld
1333 New Hampshire Ave., NW, Suite 400
Washington, D.C. 20036
Counsel for CALLING COMMUNICATIONS
CORP.

Leonard Robert Raish, Esq.
George Petrutsas, Esq.
Fletcher, Heald, & Hildreth
1300 North 17th Street, 11th Fl.
Rosslyn, VA 22209
Counsel for HARRIS CORPORATION -
FARINON DIVISION

John W. Kiebler
MITRE
Space Systems Division
409 Third Street, SW, Suite 300
Washington, D.C. 20024-3212

Wayne V. Black, Esq.
Christine M. Gill, Esq.
Rick D. Rhodes, Esq.
Keller and Heckman
1150 17th Street, NW, Suite 1000
Washington, D.C.

Albert Halprin
Stephen L. Goodman
Halprin, Temple & Goodman
1301 K Street, NW, Suite 1020
East Tower
Washington, D.C. 20005
Counsel for VIDEO/PHONE SYSTEM, INC.

Howard Oringer
TeleSciences
600 Montgomery Street
San Francisco, CA 94111

William T. Lundberg
Alliance Associates
P.O. Box 812263
Wellesley, MA 02181

Ronald D. Maines
Maines & Harshman, Chrt'd.
2300 M Street, NW, Suite 900
Washington, D.C. 20037
Counsel for UNIVERSITY OF TEXAS -
PAN AMERICAN

Daniel L. Bart
1850 M Street, NW, Suite 1200
Washington, D.C. 20036

Penny B. Rubin, Esq.
State of New York
Department of Public Service
Three Empire State Plaza
Albany, NY 12223

Joseph D. Carney
Joseph D. Carney & Associates
18680 Rivercliff Drive
Fairview Park, Ohio 44126

Michael B. Wiggen
M3 Illinois Telecommunications Corp.
963 Ventura Drive
Palatine, IL 60067

John Haven Chapman
Chapman, Moran, Hubbard,
Glazer & Zimmerman
2000 L Street, NW, Suite 200
Washington, D.C. 20036

William B. Barfield
Thomas T. Rawls, II
1155 Peachtree Street, NE, Suite 800
Atlanta, GA 30367

Bob G. Davis, Esq.
320 Indian River Avenue
Titusville, FL 32796

Howard J. Barr
Pepper & Corazzini
1776 K Street, NW
Washington, D.C. 20006

EMI Communications Corp.
P.O. Box 4872
Syracuse, NY 13221

S. Stanley Fischman
Baderwood International, Ltd.
P.O. Box 152
Rancocas, NJ 08073

Perry W. Haddon
1000 Ainsworth, Suite 310
Prescott, AZ 86301

Robert Giddings
The University of Texas System
201 West 7th Street
Austin, TX 78701

Roy J. Herbert
Alpha Industries, Inc.
651 Lowell Street
Methuen, MA 01844

Linda Shea Giesler
Farrow, Schildhause & Wilson
1400 16th Street, NW #501
Washington, D.C. 20036

Wade J. Henderson
NAACP
Washington Bureau
1025 Vermont Avenue, NW
Washington, D.C. 20005

Todd G. Gray
Kenneth D. Salomon
Dow, Lohnes & Albertson
1255 23rd Street, NW
Washington, D.C. 20037

John W. Hunter
McNair Law Firm
1155 15th Street, NW
Washington, D.C. 20005

Frederick R. Guy
Guy Law Office
850 Fay Road
Syracuse, NY 13219

James F. Ireland, III
Theresa A. Zeterberg
Cole, Raywid & Braverman
1919 Pennsylvania Ave., NW
Washington, D.C. 20006

Paula A. Jamerson
Public Broadcasting Service
1320 Braddock Place
Alexandria, VA 22314

Jack McBride
Organization of State Broadcasting
Executives
939 South Stadium Road
Columbia, SC 29201

Jay C. Keithley
Phyllis A. Whitten
1850 M Street, NW, Suite 1100
Washington, D.C. 20036

Martin T. McCue
Ann Lim
United States Telephone Assoc.
900 19th Street, NW
Washington, D.C. 20006

Patrick J. Kerins
Alex Brown & Sons, Inc.
P.O. Box 515
135 East Baltimore Street
Baltimore, MD 21202

Robert B. McKenna
1020 19th Street, NW, Suite 700
Washington, D.C. 20036

Raymond A. Linsenmayer
The United States Interactive and
Microwave Television Assoc.
2300 M Street, NW
Washington, D.C. 20037

Ron Milford
Technology Engineering Company
P.O. Box 671192
Dallas, TX 75367

Paul S. Madison
Becker & Madison Chrt'd.
1915 Eye Street, NW
Washington, D.C. 20006

Marilyn Morhman-Gillis
Association of America's Public
Television Stations
1350 Connecticut Ave., NW
Washington, D.C. 20036

Deborah H. Morris
Ameritech
30 South Wacker Drive
Chicago, IL 60606

John Schill
RioVision
P.O. Box 1065
1800 East Highway 83
Weslaco, TX 78596

Dr. Daniel Niemeyer
Academic Media Services
University of Colorado at Boulder
360 Stadium, Gate 11
Campus Box 379
Boulder, CO 80309

Jeffrey L. Sheldon
Thomas E. Goode
Utilities Telecommunications
Council
1140 Connecticut Ave., NW
Washington, D.C. 20036

Robyn G. Nietert
Steven E. Swenson
Brown, Nietert & Kaufman
1920 N Street, NW
Washington, D.C. 20036

Robert L. Silber
National Captioning Institute, Inc.
5203 Leesburg Pike, Suite 1500
Falls Church, VA 22041

Thomas A Rose
M/A-COM, Inc.
1011 Pawtucket Blvd.
P.O. Box 3295
Lowell, MA 01853

Craig T. Smith
P.O. Box 11315
Kansas City, MO 64112

William L. Roughton, Jr.
Edward D. Young, III
Bell Atlantic Personal
Communications, Inc.
1310 N. Courthouse Road
Arlington, VA 22201

Linda K. Smith
Robert M. Halperin
William D. Wallace
Growell & Moring
1001 Pennsylvania Ave., NW
Washington, D.C. 20004

Vason P. Srin
Dataflow Systems
986 Cragmont Avenue
Berkeley, CA 94708

Melodie A. Virtue
Haley, Bader & Potts
4350 North Fairfax Drive
Arlington, VA 22203

Michael W. Thompson
Cardiff Broadcasting Group
2010 Jimmy Durante Blvd., Suite 224
Del Mar, CA 92014

Norman Wagner, Ph.D.
The University of California
Riverside
2258 California State Polytechnic
University
Pomona, CA

Josephine S. Trubek
Michael J. Shortley, III
Rochester Telephone Corp.
180 South Clinton Ave.
Rochester, NY 14646

Richard West
The University of California
300 Lakeside Drive
Oakland, CA 94612

James P. Tuthill
Betsy S. Granger
140 New Montgomery Street
San Francisco, CA 94105

Richard S. Wilensky
Middleberg, Riddle & Gianna
2323 Bryan Street
Dallas, TX 75201

James L. Wurtz
1275 Pennsylvania Ave., NW
Washington, D.C. 20004

George Y. Wheeler
Koteen & Naftalin
1150 Connecticut Avenue, NW
Washington, D.C. 20036

Edward R. Wholl
Katherine S. Abrams
2000 Corporate Drive
Orangeburg, NY 10962

7253F